

RECLAMATION

Managing Water in the West

Reclamation Meeting on *Managing For Excellence* Breakout Session: Title Transfer

July 11, 2006

Las Vegas, NV



U.S. Department of the Interior
Bureau of Reclamation

Action Item 28: Title Transfer

Objectives:

- Determine Where Additional Opportunities Exist for Mutually Beneficial Title Transfers to:
 - Transfer Responsibility & Costs
 - Encourage Any That are Appropriate

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Action Item 28: Title Transfer

Tasks:

- Review and update 2003 report titled “Evaluation of the Title Transfer Program of the Bureau of Reclamation.”
- Identify obstacles or barriers experienced in past Transfer efforts (i.e. lessons learned).
- Explore ways to eliminate or stream line Title Transfer process.
- Explore potential “carrots” that may encourage Transfers.
- Develop criteria that might lead to success of partial or complete title transfer of projects.
- Meet with stakeholders to get feedback on draft criteria.

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Evolution of Current Title Transfer Process

Background: How Did We Get To This Process?

- Evaluated Lessons Of Past Experience.
 - Platoro (Legislation Never Enacted)
 - Vermejo (Legislation in 1980 & 1992 - Implemented 1996)
 - Central Valley Project (Legislation Never Enacted)
 - Solano (Legislation Never Enacted)
- Some “Deals” Broke Down or Were Not Implementable.
- As a Result, Developed “*Framework* ” for Locally Driven Negotiation Process

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Projects Transferred (Since 1996)

18 Projects/Facilities Transferred

- Rio Grande (NM & TX) (1996)
- Vermejo (NM) (1996)
- Boulder City Pipeline (NV) ('96)
- San Diego Aqueduct (CA) ('97)
- Oroville Tonasket Unit (WA) ('98)
- Canadian River Project (TX) ('99)
- Burley (ID) (2000)
- Clear Creek CVP (CA) ('01)
- Palmetto Bend (TX) ('01)
- Griffith (NV) ('01)
- Nampa Meridian (ID) ('01)
- Carlsbad (NM) ('01)
- Colorado Big Thompson (CO) ('02)
- Middle Loup (PSMBP – NE) ('02)
- Sugar Pine (CVP- CA) ('03)
- Sly Park (CVP - CA) ('03)
- Harquahala Valley (AZ) ('04)
- Fremont Madison (ID) ('04)

Authorized But Not Transferred (5)

- Wellton Mohawk (AZ) (106th)
- Humboldt (NV) (107th)
- Carpinteria (CA) (108th)
- Montecito (CA) (108th)
- Provo River (UT) (108th)

Current Legislation (3)

- Yakima Tieton (WA)
- Colorado Big Thompson (CO)
- American Falls Res. District #2 (ID)

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2003 Evaluation of Title Transfer “Program”

In 2003, Department of the Interior Conducted Objective Evaluation of Reclamation’s Title Transfer Efforts w/ Recommendations for Improvements.

- Benjamin Simon (Secretary’s Office of Policy Analysis) As Study Coordinator.
- Formal Survey of Reclamation Employees.
- Water User Brainstorming Forum.
- Interview Stakeholders (Local & National).
- Recommendations for Process Improvements.

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2003 Study – Lessons Learned

- Projects are all different in scope and complexity
- “One size fits all” approach is not practical
- “Up-front” work essential part of a successful legislative process
- Transaction Costs:
 - Can Be Significant,
 - Vary Widely
 - A Source of Conflict (Who Pays For What.)
 - Disincentive for Some
- M&I Districts Have Less Concern About Transaction Costs.

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Lesson Learned (cont.)

- Valuation Process less Controversial or Complicated than Anticipated.
- Ownership Liability Can Be Disincentive.
- Cultural Resource & Real Property Issues More Costly & Time Consuming Than Expected. (Compliance with NHPA – Section 106)
- ESA & NEPA Compliance both an Incentive & Disincentive
- Limited Cost Savings To Date
 - Few FTEs & Limited Expenditures Associated With Transfer Candidates.
 - O&M Already Transferred.
 - Avoided “Administrative” Costs Were Small.
 - Hard To Quantify Avoided Liability.

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Lesson Learned (cont.)

- **Early Cooperation = Quicker & Smoother Transfer.**
- **Limited Incentives for Reclamation (Regional and Field Staff) to Pursue Title Transfer. Must Use Existing Funds & Staff From Other Activities to Pay for Title Transfer Transaction Costs.**
- **Transfer of Project Lands Significantly Add to Complexity and Cost**

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2003 REPORT

RECOMMENDATIONS IMPLEMENTED

- Reclamation policy revised to require preparation of detailed analysis and detailed cost estimates prior to each transfer, while improving communications with stakeholders .
- At the start of a Title Transfer Reclamation now:
 - Identifies who in the Agency is involved and responsible and creates a Transfer Team for each transfer
 - Clarifies for the District(s) the process
 - Provides a Transfer Process checklist
 - Provides sample MOU, Transfer Agreements, Legislation, QCD's & Other Materials to Interested Entities.
 - Provides Transaction Cost Estimate and Initial Valuation Estimate

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2003 REPORT RECOMMENDATIONS IMPLEMENTED (continued...)

- **Actions Reclamation has Taken That Will Potentially Impact Future Transfers**
 - Submitted Request for Categorical Exclusion for NEPA Process Where Appropriate
 - Completed An Evaluation of How the Agency Addresses Cultural Resources & Real Property Issues

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What We've Heard Since that Study

- **Goals and Objectives Need Further Clarification**
- **Customers, Staff & Stakeholders Say Title Transfer**
 - Takes Too Long
 - Still Complicated and Unclear
 - Costly
 - Legislative Process “Out of Sync.” with On the Ground Negotiations Process
- **Still No Incentives for Reclamation Field and Regional Managers.**

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Title Transfer Under Managing for Excellence Effort

Next Steps:

- Further Identify Barriers
 - Further Identify Incentives
 - Clarify Goals and Objectives
 - Evaluate Remaining 2003 Report Recommendations
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- Considering Development of Title Transfer “Programmatic” Legislation to:
 - Clarify Authority to Study Transfer
 - Provide Generic Authority to Transfer Certain Types of Facilities based upon Identified Criteria Such As:
 - Qualify for Categorical Exclusion
 - Limited to Facilities and Lands Required for O&M
 - No Intended Change of Use for Facilities
 - No Controversy

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Discussion/Feedback

- What are Your Impressions/Thoughts about Title Transfer?

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Discussion/Feedback

- What Incentives Would Encourage More Transfers?
- What are the Barriers?

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Discussion/Feedback

- **Legislation**
 - Ideas on “Structure” of Program
 - What “Criteria” Might be Included?
- **Other Approaches?**

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